

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

DYSON TECHNOLOGY LIMITED and)	
DYSON, INC.,)	
)	
Plaintiffs,)	
v.)	C.A. No. 05-434-GMS
)	
MAYTAG CORPORATION,)	REDACTED –
)	PUBLIC VERSION
Defendant.)	

**PLAINTIFFS' REPLY BRIEF IN SUPPORT OF MOTION *IN LIMINE* NO. 6
TO EXCLUDE EVIDENCE OF MAYTAG'S REPEAT BIN EMPTYING TEST**

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Dated: April 26, 2007

TABLE OF EXHIBITS

	Tab
Excerpts from Transcript of December 14, 2006 Deposition of Daniel Miller	A
Excerpts from Transcript of February 19, 2007 Deposition of Ronald D. Battema	B
Exhibit No. 5 from Battema Expert Report	C
FIGLIOA00546 (Photograph)	D
FIGLIOA00589 (Photograph)	E
DYS528253-55	F

Maytag's principal response to Dyson's motion in limine is *not* that its Repeat Emptying Test is reliable, but merely that *no other* test method was suitable, and therefore Maytag's test "had to be employed." (Opp. at 5) (D.I. 353) A test that "had to be employed," surely, would not have made its debut months after the close of expert discovery or years after Maytag contends it knew Dyson's claims were false. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] The test, and any related testimony, should be excluded.

ARGUMENT

Maytag's core defense of its Repeat Emptying Test – that there was no other lab test available – is revisionist history. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] Only after years of competition from Dyson and months past the end of expert discovery did Maytag feel compelled to devise a new test.

Most importantly, Maytag now fails to offer *any* evidence that its new Repeat Emptying Test is reliable. Despite numerous references to “correlation to home use,” Maytag has not demonstrated that its Repeat Emptying Test is remotely meaningful to the consumer experience.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

YOUNG CONAWAY STARGATT & TAYLOR, LLP

Dated: April 26, 2007

CERTIFICATE OF SERVICE

I, Monté T. Squire, hereby certify that on May 3, 2007, I caused to be electronically filed a true and correct copy of the foregoing document with the Clerk of the Court using CM/ECF, which will send notification that such filing is available for viewing and downloading to the following counsel of record:

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I further certify that on May 3, 2007, I caused a copy of the foregoing document to be served by hand delivery on the above-listed counsel of record and on the following in the manner indicated:

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